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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Ms. Magalie Roman Salas  
Secretary  
Federal Communications Commission  
445 Twelfth Street, S.W.  
Room TW-A325  
Washington, DC 20554

Re: Reply of PRTC; Federal-State Joint Board on Universal Service:  
Recommendations for Phasing Down Interim Hold-Harmless  
Provision (CC Docket No. 96-45)

Dear Secretary Salas:

Enclosed, please find an original and four copies of the Reply submitted on behalf of the Puerto Rico Telephone Company, Inc. ("PRTC") in the above-referenced proceeding.

Please date-stamp one of the enclosed copies of the Reply and return to us, via our messenger.

You may reach me directly at (202) 842-8843 should you have any questions.

Sincerely,



Courtney R. Eden

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Enclosure

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AUG 28 2000

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

In the Matter of	)	
	)	
Federal-State Joint Board on Universal Service:	)	CC Docket No. 96-45
Recommendations for Phasing Down Interim	)	DA 00-1536
Hold-Harmless Provision	)	

**REPLY OF PUERTO RICO TELEPHONE COMPANY, INC.**

Puerto Rico Telephone Company, Inc. ("PRTC"), by its attorneys, hereby replies to the comments in the above-referenced proceeding regarding the recommendations of the Federal-State Joint Board on Universal Service ("Joint Board").<sup>1</sup> PRTC urges the Commission to retain the existing hold-harmless support policy, at least until it is determined that the model methodology is consistent with the principles of universal service. If the Commission decides not to retain the existing hold-harmless support policy, the Commission should apply any reductions in hold-harmless support on a wire center basis, not a study area basis, as the Joint Board has proposed. Finally, to the extent that hold-harmless support is phased down, the Commission should adopt the Joint Board's recommendation to exclude Long-Term Support ("LTS") from the phase down.

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<sup>1</sup> See Common Carrier Bureau Seeks Comments on Federal-State Joint Board on Universal Service; Recommendations for Phasing Down Interim Hold-Harmless Provision, Public Notice, CC Docket No. 96-45, DA 00-1536 (rel. July 11, 2000) ("Public Notice"); Federal-State Joint Board on Universal Service, Recommended Decision, CC Docket No. 96-45, FCC 00J-1 (rel. June 30, 2000) ("Recommended Decision").

**I. THE EXISTING HOLD-HARMLESS SUPPORT POLICY SHOULD BE RETAINED**

**A. Elimination of the Existing Hold-Harmless Support Policy Will Seriously Undermine Efforts to Provide Universal Service**

Elimination of the existing hold-harmless support policy will seriously undermine efforts to provide universal service throughout Puerto Rico. The projected high-cost support amount for Puerto Rico in 2000 is \$52 million. Under the new universal service support mechanism based on the model methodology, Puerto Rico will receive absolutely no high-cost support—even though its needs for universal service remain largely unchanged. A loss of hold-harmless support would be particularly harmful to Puerto Rico for several reasons. First, the island-wide telephone penetration rate is much lower than the U.S. national average rate: the telephone penetration rate in Puerto Rico is only 74.2 percent, while the U.S. national average rate is 94.6 percent (as of March 2000). Second, the average annual income in Puerto Rico is only \$8,817.00,<sup>2</sup> which is approximately one-third the U.S. national average annual income of \$25,288.00,<sup>3</sup> rendering it difficult for many people to afford basic telephone service. Third, Puerto Rico is characterized by a wide mountainous interior and sparsely populated areas, conditions which contribute to the high expense of providing telephone service in Puerto Rico. Fourth, severe weather, such as hurricanes, often cause extensive damage to existing telecommunications infrastructure, factors which increase the cost of providing basic telephone service on the island.

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<sup>2</sup> See Informe Económica al Gobernador, Negociado de Estadísticas de la Junta de Planificación, Tabla 1 (1998).

<sup>3</sup> “1997 Local Area Personal Income,” Bureau of Economic Analysis, Commerce Department (May 6, 1999).

Hold-harmless support remain critical to PRTC's efforts to provide affordable, basic telephone service throughout Puerto Rico because rate increases are a logical result of eliminating existing hold-harmless support. By implementing rate increases, however, current subscribers are likely to be driven off the network, which would further reduce the telephone penetration rate in Puerto Rico. Quite simply, the combination of high costs and low consumer income in Puerto Rico places a premium on at least maintaining current support levels.

**B. The Act, Public Policy and Other Parties Support Retention of the Existing Hold-Harmless Support Policy**

Section 254(b)(3) of the Act provides that “[c]onsumers in all regions of the Nation, including . . . those in rural, insular, and high cost areas, should have access to telecommunications and information services” at rates comparable to those offered to consumers in rural areas.<sup>4</sup> Such language supports retention of the existing hold-harmless support policy because any reduction in support that affects rate levels tends to contravene statutory universal service principles by undermining the affordability of basic telephone service. All consumers, including those in insular areas—such as Puerto Rico—must receive telecommunications services at affordable rates. The subscribership level in Puerto Rico already indicates that the telecommunications services are not affordable to the potential subscriber base, such that any reductions in support necessarily will have a negative impact on affordability.

Public policy also dictates against a phase down of hold-harmless support. The Commission stated in the Seventh Report and Order that adoption of a hold-harmless policy would serve “to avoid any potential rate shock when the new federal support mechanism goes into effect, and to prevent undue disruption of state rate designs that may have been constructed

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<sup>4</sup> 47 U.S.C. § 254(b)(3).

upon, and thus are dependent upon, current federal high-cost support flows.”<sup>5</sup> Consistent with this finding, the Commission stated in the Ninth Report and Order that a carrier-by-carrier hold-harmless provision is necessary, so that “no sudden or undue disruption in consumer rates occurs during the transition to the new federal high-cost support mechanism based on forward-looking economic costs.”<sup>6</sup> Continued hold-harmless support is necessary to satisfy the public policy of avoiding rate shock and disruption in consumer rates.

Several parties—notably Sprint Corporation (“Sprint”), the Verizon telephone companies (“Verizon”) and the Wyoming Public Service Commission (“Wyoming PSC”)—support retention of the existing hold-harmless support policy. Sprint urges the Commission to retain hold-harmless support until final, accurate mechanisms of cost have been adopted.<sup>7</sup> Similarly, Verizon states that hold-harmless support should not be phased down until the Commission “has filled in all the pieces of the universal service puzzle,” and that such action cannot yet occur due to several “moving parts” of the puzzle—notably the reform of universal service support for rural carriers and the legal status of the proxy model approach that is before the U.S. Supreme Court for review.<sup>8</sup> The Wyoming PSC urges the Commission to reject completely the Joint Board’s recommendation, and that “[t]o do otherwise harms ratepayers in rural states and violates every

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<sup>5</sup> See Federal-State Joint Board on Universal Service, Access Charge Reform, Seventh Report & Order and Thirteenth Order on Reconsideration in CC Docket No. 96-45, Fourth Report and Order in CC Docket No. 96-262 and Further Notice of Proposed Rulemaking, 14 FCC Rcd 8078, 8084-85 (¶ 14), 8110-11 (¶ 68) (1999) (“Seventh Report and Order”).

<sup>6</sup> Federal State Joint Board on Universal Service, Ninth Report & Order and Eighteenth Order on Reconsideration, CC Docket No. 96-45, FCC 99-306, at 44 (¶ 79) (rel. Nov. 2, 1999) (Ninth Report and Order”).

<sup>7</sup> Sprint Comments at 2. Sprint recommends a 24- to 36-month period during which hold-harmless support should remain in place following the calculation of final costs on the federal level.

<sup>8</sup> Verizon Comments at 1.

statutory and historic principle of maintaining affordable telephone service throughout our nation.”<sup>9</sup> These statements, with which PRTC agrees, support maintenance of the existing hold-harmless support policy and rejection of the January 1, 2001 date on which the Joint Board has proposed a phase down in support should begin. While maintenance of the existing policy beyond the phase down timeframe suggested by the Joint Board may not necessarily be “prompt” as advocated by WorldCom,<sup>10</sup> continuation of the policy is necessary given the acute need to promote universal service in Puerto Rico.<sup>11</sup>

All of these factors support retention of the existing hold-harmless support policy. Accordingly, the Commission should retain the existing hold-harmless support policy, at least until the final results of the newly adopted high-cost support mechanism are fully analyzed and determined to be consistent with “the preservation and advancement of universal service.”<sup>12</sup>

## **II. THE COMMISSION SHOULD ALTERNATIVELY PHASE DOWN HOLD-HARMLESS SUPPORT ON A WIRE CENTER BASIS**

If the Commission determines that hold-harmless support should be phased down, PRTC alternatively has recommended that the Commission determine reductions in per-line hold-harmless support by using a wire center basis, consistent with the current universal service rules. Specifically, section 54.311(b) of the Commission’s rules targets hold-harmless support to non-rural carriers based on a “cascading” or descending method. Under this method, support is targeted to wire centers, in a cascading fashion, until support is fully distributed. In addition,

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<sup>9</sup> Wyoming PSC Comments at 7

<sup>10</sup> WorldCom Comments at 3.

<sup>11</sup> The Florida Public Service Commission (“FLAPSC”) submits similar comments, questioning the length of the phase down period. See FLAPSC Comments at 3.

<sup>12</sup> 47 U.S.C. § 254(b).

support is distributed first to wire centers with the highest forward-looking economic cost per-line. Distribution of support to this wire center continues until the wire center's average forward-looking economic cost per line (net of support) equals the average forward-looking economic cost per line of the second most high-cost wire center, and so on, until support is exhausted.

By comparison, the Joint Board's proposal reduces support on a study area basis. Specifically, the Joint Board's proposal requires hold-harmless support to be phased down on an annual basis through \$1.00 reductions in average monthly, per-line support on a study area basis. As a result, the Joint Board's proposal would eliminate more quickly support to the highest cost areas than warranted by the Commission's rules requiring the targeting of support on a wire center basis, rendering rate shock—through increased consumer rates—more likely. Consequently, existing subscribers may leave the network, while potential subscribers may decide not to obtain basic telephone service.

Clearly, the Joint Board's proposal contravenes existing rules and at the same time, prematurely eliminates support, which is more likely to produce rate shock and lost subscribers. This outcome would be antithetical to the purposes of the universal service program. Accordingly, PRTC urges the Commission to phase down hold-harmless support on a wire center basis and to reject the Joint Board's proposal utilizing a study area basis.

### **III. THE COMMISSION SHOULD EXCLUDE LTS FROM THE PHASE DOWN OF HOLD-HARMLESS SUPPORT**

The Joint Board proposes that LTS should be excluded from the proposed phase down of hold-harmless support because the new forward-looking support mechanism does not replace LTS (for non-rural carriers). Several parties support this recommendation. Specifically, GSA

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believes that LTS is necessary to maintain stability in per-line access charges for several carriers.<sup>13</sup> Similarly, the Telecommunications Regulatory Board of Puerto Rico (“TRBPR”) states that “it is wisely recognized that there is no substitute for this support in the new, forward-looking high cost support mechanism . . . .”<sup>14</sup> PRTC agrees with these statements and urges the Commission to adopt the Joint Board’s recommendation.

Other parties have quite different views. In particular, WorldCom claims that PRTC will not need subsidies to reduce its common carrier line (“CCL”) costs as a result of the GTE merger and the requirement that PRTC become a price cap carrier.<sup>15</sup> This claim does not provide a sound basis on which to prohibit or limit PRTC’s continued receipt of LTS. Quite simply, PRTC has been and remains a rate-of-return carrier participant in the CCL pool of NECA and as such, is entitled to receive LTS. PRTC has petitioned for a waiver of the all-or-nothing rule, 47 C.F.R. § 61.41, which would otherwise require PRTC’s conversion to price cap regulation following PRTC’s transfer of control to GTE.<sup>16</sup> Contrary to WorldCom’s claim that PRTC’s need for LTS will be “greatly diminished,”<sup>17</sup> PRTC has demonstrated in the proceeding regarding its petition that waiver of the rule is appropriate and that PRTC should remain a rate-of-return carrier.

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<sup>13</sup> GSA Comments at i & 5.

<sup>14</sup> TRBPR Comments at 3. The National Telephone Cooperative Association (“NTCA”), the National Exchange Carrier Association, Inc. (“NECA”), the National Rural Telecom Association (“NRTA”) and the Organization for the Promotion and Advancement of Small Telecommunications Companies (“OPASTCO”), the Roseville Telephone Company and the United States Telecom Association (“USTA”) similarly agree with the Joint Board’s recommendation that the Commission should exclude LTS from the phase down of hold-harmless support.

<sup>15</sup> WorldCom Comments at 2.

<sup>16</sup> See Puerto Rico Telephone Company, Petition for Waiver of Section 64.41 or Section 54.303(a) of the Commission’s Rules, Petition for Waiver on Behalf of PRTC (Dec. 10, 1999).

<sup>17</sup> WorldCom Comments at 2.



On June 5, 2000, the Competitive Pricing Division (“CPD”) of the Common Carrier Bureau granted PRTC an extension for one year to delay its conversion to price cap regulation, providing additional time for the Commission to consider the important issues associated with PRTC’s request.<sup>18</sup> The CPD expressly noted that the requested waiver raises “complex issues regarding local competition, universal service support in Puerto Rico, and operation of the NECA Common Line Pool,” and that an abundance of cost data and supplementary information had been filed.<sup>19</sup> On this basis, Worldcom’s purpose in addressing those issues in this proceeding is unclear considering that PRTC’s pending waiver request is not germane to the Joint Board’s general determination that LTS is not replicated in the revised universal service model methodology. Thus, the Joint Board appropriated concluded that transition from the hold-harmless to the revised methodology must not include or affect LTS amounts.

#### **IV. CONCLUSION**

For these reasons, the Commission should retain the existing hold-harmless support policy, at least until it is determined that the model methodology is consistent with the principles of universal service. If the Commission decides not to retain the existing hold-harmless support policy, any reductions in hold-harmless support should be implemented on a wire center basis, not a study area basis, as the Joint Board has proposed. Finally, to the extent that hold-harmless

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<sup>18</sup> Puerto Rico Telephone Company, Petition for Waiver of Section 61.41 or Section 54.303(a) of the Commission’s Rules, Order, 15 FCC Rcd 9680, 9680 (¶ 5) (2000).

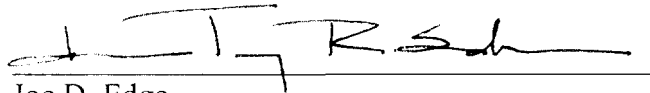
<sup>19</sup> See id.

support is phased down, the Commission should adopt the Joint Board's recommendation to exclude LTS.

Respectfully submitted,

PUERTO RICO TELEPHONE COMPANY, INC.

By:

A handwritten signature in black ink, appearing to read "J. D. Edge", written over a horizontal line.

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August 28, 2000

### CERTIFICATE OF SERVICE

I, Courtney R. Eden, certify that a copy of the foregoing Reply was mailed by first-class mail, postage pre-paid, on this 28<sup>th</sup> day of August, 2000 to each of the following individuals or entities (unless otherwise indicated):

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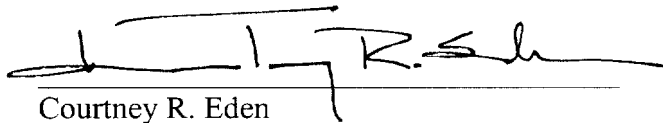
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